

SERVICE DATE – MAY 15, 2006

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 34839

NORFOLK SOUTHERN CORPORATION AND NORFOLK SOUTHERN RAILWAY
COMPANY–CONTROL AND CONSOLIDATION EXEMPTION–ALGERS, WINSLOW
AND WESTERN RAILWAY COMPANY

Decided: May 12, 2006

On February 14, 2006, Norfolk Southern Railway Company (NSR) filed a petition for exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 11323, et seq., to acquire control of Algiers, Winslow and Western Railway Company (AWW) and to consolidate AWW into NSR following the acquisition. Indiana Southern Railroad, Inc. (ISRR), Indianapolis Power and Light Co. (IPL), PSI Energy, Inc. (PSI) and Solar Sources Underground, LLP (Solar), filed replies opposing NSR's petition and requesting the imposition of conditions.

By decision served on April 3, 2006, the Board granted NSR leave to amend its petition for exemption to add Norfolk Southern Corporation (NSC), NSR's parent corporation, to the petition and to file a reply on or before April 11, 2006, to the filings made by ISRR, IPL, PSI and Solar. On April 11, 2006, NSR and NSC (collectively, NS) filed their reply. On April 24, 2006, the Board issued a decision permitting the parties to reply to the arguments and evidence presented in NS's April 11 filing, on or before May 1, 2006. ISRR, IPL, PSI and Solar filed replies on May 1, 2006.

By letter filed on March 24, 2006, ISRR has requested an oral argument.¹ It contends that oral argument would allow the parties to explain the need to condition the proposed transaction and to answer any questions that the Board may have. NS opposes the request. The record is sufficient for the Board to reach an informed decision based on the written submissions. Holding an oral argument appears unlikely to yield additional relevant information. Thus, the request for oral argument will be denied.

By letter filed on April 21, 2006, ISRR also has requested that the Board establish a procedural schedule in this proceeding providing for discovery and comments and publish a notice in the Federal Register. Because the parties have already been given the opportunity to reply and to supplement the record, ISRR's request will be denied.

Finally, the petition for exemption and the subsequent pleadings filed by the parties raise issues that require further consideration by the Board. By this decision, the Board is instituting a

¹ PSI filed a letter in support of ISRR's request for oral argument on April 4, 2006.

proceeding under 49 U.S.C. 10502(b) to consider NS's petition and the issues raised by the parties in their pleadings.

It is ordered:

1. ISRR's request for oral argument is denied.
2. ISRR's request that the Board establish a procedural schedule is denied.
3. Under 49 U.S.C. 10502(b), a proceeding is instituted to consider NS's petition and the subsequent pleadings filed by the parties.
4. This decision is effective on its date of service.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary